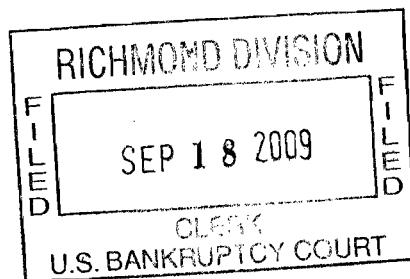


1 Barbara A. Stephenson, Kitsap County Treasurer  
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4 Attention: Elly Marts, Program Assistant  
5 (360) 337-4936



8  
9 UNITED STATES BANKRUPTCY COURT  
10 EASTERN DISTRICT OF VIRGINIA  
11 RICHMOND DIVISION

12 In re:

13 Circuit City Stores, Inc. et al.,

14 Debtors.

Chapter 11

Case No. 08-35653 (KRH)  
Jointly Administered

Hearing Date/Time: October 7, 2009  
2:00 p.m. (Eastern Time)

16  
17 CREDITOR KITSAP COUNTY TREASURER'S RESPONSE TO DEBTORS'  
18 THIRTY-SEVENTH OMNIBUS OBJECTION TO CLAIMS (REDUCTION OF  
19 CERTAIN PERSONAL PROPERTY TAX CLAIMS)

20 I. INTRODUCTION

21 Creditor Kitsap County Treasurer ("Kitsap County") files this response to Debtors'  
22 Thirty-Seventh Omnibus Objection to Claims (Reduction of Certain Personal Property Tax  
23 Claims) (the "Objection"), which was filed on August 24, 2009. The Debtors' objection to  
24 Kitsap County's claim is without merit and the Court should allow the claim as filed. The  
25 amount of the claim is presumed correct and the Debtors' generic and factually unsupported  
26 objections are insufficient to overcome that presumption.

27  
28 CREDITOR KITSAP COUNTY TREASURER'S RESPONSE  
TO DEBTORS' THIRTY-SEVENTH OMNIBUS OBJECTION  
TO CLAIMS - 1

## II. BACKGROUND

Kitsap County is a municipal corporation and political subdivision of the State of Washington. Kitsap County imposes ad valorem real and personal property taxes pursuant to Title 84 of the Revised Code of Washington. The personal property used by the Debtor Circuit City Stores, Inc. in its business in the State of Washington in the County of Kitsap was subject to such ad valorem taxation. Such personal property taxes were properly imposed on Circuit City Stores, Inc. pursuant to state law in the pre-petition amount of \$1,245.96 and in the post-petition amount of \$1,192.34. Kitsap County's Proof of Claim for the pre-petition taxes was properly filed on June 15, 2009 and is designated as Claim No. 13337. Kitsap County's request for payment of post-petition taxes as an administrative expense in the amount of \$1,192.34 was dated June 9, 2009 and was acknowledged as being received by the claims agent, Kurtzman Carson Consultants LLC, on June 15, 2009.

The Debtors do not challenge the amount of Kitsap County's pre-petition claim, but do now seek to reduce the amount of Kitsap County's administrative-payment request from \$1,192.34 to \$460.24. Objection Exhibit C at 21.

### III. ARGUMENT

A proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes prima facie evidence of the validity *and amount* of the claim. BR 3001(f).<sup>1</sup> In addition, under state law, upon review by any court of a determination of the valuation of property for purposes of taxation, it shall be presumed that the determination of the public official charged with the duty of establishing such value is correct. This presumption may only

<sup>1</sup> The Debtors are objecting to Kitsap County's administrative-expense request, but the same presumption applicable to a proof of claim should apply to an administrative-expense request.

1 be overcome by clear, cogent and convincing evidence. RCW 84.40.0301.

2 Therefore, for this Court to order that the amount of Kitsap County's claim be reduced,  
3 the Debtors must demonstrate that the claim amount is incorrect and that their asserted amount  
4 is correct.

5 Tellingly, the Debtors offer no admissible evidence in support of the Objection by, for  
6 example, a declaration from a qualified expert. Instead, the Debtors simply make the  
7 conclusory and factually unsupported assertion that "the Claims are overstated in amount given  
8 the value of the personal property that is the subject of the personal property taxes." Objection  
9 at 6. The Objection contains no store- or property-specific valuation analyses. The Objection  
10 apparently applies equally and without distinction to all 120 claims to which the Debtors are  
11 objecting, suspiciously resulting in a proposed tax reduction of almost exactly 50 percent (from  
12 \$4,600,321.53 to \$2,355,096.95). Objection at 8.

13 If the Debtors had a good-faith belief that Kitsap County's administrative-expense  
14 request was improper, they could have (a) filed an administrative appeal pursuant to state law,  
15 RCW 84.40.038, (b) filed a tax-refund lawsuit pursuant to state law, RCW 84.68.020, or (c)  
16 requested a determination of their tax liability by Kitsap County pursuant to 11 U.S.C. §  
17 505(b)(2). They did none of these things.

18 The Debtors have not overcome the presumption that their tax liability is correct. In  
19 fairness to other county taxpayers, the Debtors should not now be allowed to reduce their tax  
20 liability by conclusory and factually unsupported allegations.

#### IV. CONCLUSION

For the reasons stated above, the Court should overrule the Debtors' objection to Kitsap County's claim and allow the claim as filed.

RESPECTFULLY SUBMITTED this 16<sup>TH</sup> day of September, 2009.

BARBARA A. STEPHENSON  
Kitsap County Treasurer

By Elly Marts  
Elly Marts, Program Assistant